



NATIONAL ASSOCIATION OF  
CHAIN DRUG STORES

Statement on  
“Comprehensively Combating  
Methamphetamines: Impacts on Health and  
the Environment”

Hearing of the Energy and Commerce  
Subcommittees on  
Health and Environment and  
Hazardous Materials

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NACDS appreciates the opportunity to testify before the House Subcommittees on Health and Environment and Hazardous Materials to address the methamphetamine problem.

The National Association of Chain Drug Stores (NACDS) represents the nation’s leading retail chain pharmacies and suppliers, helping them better meet the changing needs of their patients and customers. NACDS members operate more than 35,000 pharmacies, employ 108,000 pharmacists, fill more than 2.3 billion prescriptions yearly, and have annual sales of over \$700 billion. Other members include almost 1000 suppliers of products and services to the chain drug industry. NACDS international membership has grown to include 90 members from 30 countries. For more information about NACDS, visit [www.nacds.org](http://www.nacds.org).

Our membership is deeply concerned about the problems of methamphetamine production and abuse. NACDS continues to have ongoing calls and meetings to discuss this issue and to develop solutions to this devastating problem in our country. The majority of the chain community pharmacy industry has taken voluntary, proactive steps that go beyond what is required by law to reduce the theft and illegitimate use of pseudoephedrine products. They:

- have placed these products behind pharmacy and/or sales counters voluntarily, or have otherwise limited access to these products in their stores,
- have initiated voluntary sales limits of these products,
- participate in voluntary education and theft-deterrent programs such as Meth Watch,
- voluntarily eliminate consumer self-access to pseudoephedrine products in their stores in geographic areas where methamphetamine is a problem,
- participate in youth anti-methamphetamine education efforts,
- educate their employees about methamphetamine abuse to raise awareness and prevent questionable sales of these products, and
- work with law enforcement by reporting suspicious activity in their stores.

Moreover, chain pharmacy has worked closely with the Drug Enforcement Administration (DEA) and state and local law enforcement officials since 1995 to stem the tide of methamphetamine production in communities across the U.S.

### **Introduction**

Almost one year ago, on November 18, 2004, NACDS testified before the House Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources about law enforcement and the fight against methamphetamine. At that time, NACDS commented on various solutions we believe would help reduce the methamphetamine problem. These solutions include:

- Encourage states to pass necessary restrictions and penalties upon those arrested for and/or convicted of methamphetamine-related offenses;
- Federalize methamphetamine-related offenses;
- License non-pharmacy retailers that sell pseudoephedrine products;
- Significantly increase funding for methamphetamine abuse prevention programs;
- Work in concert with the State Department and officials in chemical producing countries (e.g., India, China, the Czech Republic and Germany) to more closely track every sale of pseudoephedrine into the United States;
- Provide incentives for drug companies to develop an effective decongestant that cannot be converted into methamphetamine;
- Provide more funding and resources to DEA for enforcement activities;
- Enact import controls on bulk pseudoephedrine and ephedrine similar to Schedule II controlled substances; and limiting imports to those necessary for legitimate commercial needs;
- Provide funding resources to local law enforcement for methamphetamine lab cleanup;
- Provide additional funding for treatment of methamphetamine addicts so that they can eventually become productive members of our communities; and
- Continue to coordinate with Canada and Mexico on distribution tracking and control of pseudoephedrine and ephedrine.

### **Meth Epidemic Elimination Act**

We are pleased that both the U.S. House of Representatives and Senate have introduced legislation that reflects solutions identified by NACDS. We applaud Representatives Mark Souder (R-IN) and Jim Sensenbrenner (R-WI) for their leadership in introducing the Meth Epidemic Elimination Act (H.R. 3889) to address the methamphetamine problem. Many of the provisions in the Meth Epidemic Elimination Act are similar to provisions that we have advocated, including the recommendations we provided in our testimony on November 18, 2004. We advocated for import and export controls for pseudoephedrine, and this is exactly what has been proposed by Sections 102, 103, 104, 105, 106, 201 and 202. DEA admits that there exists a very large discrepancy between U.S. bulk pseudoephedrine import records and the records of legitimate U.S. manufacturers of pseudoephedrine-based products. No one is sure where the unaccounted bulk pseudoephedrine goes—most likely into criminal hands. We believe that import and export controls are necessary to reduce diversion of bulk pseudoephedrine.

We have advocated for enhanced penalties for methamphetamine related offenses. This has been proposed under Title III of the Meth Epidemic Elimination Act. We have advocated for funding for methamphetamine lab cleanup costs. This has been addressed in Title IV of the Meth Epidemic Elimination Act. We believe these provisions will assist local law enforcement officials as they struggle to handle the methamphetamine problem throughout the country. Local law enforcement officials in communities all across the country have indicated that their most severe problem continues to be with the small methamphetamine labs, which are draining all their time and resources. Once we help them resolve the problems associated with methamphetamine production by the small labs, they can better prepare themselves to focus on the larger problem of methamphetamine abuse.

### **Combat Meth Act**

The Combat Meth Act, introduced by Senators Jim Talent (R-MO) and Dianne Feinstein (D-CA), would provide numerous tools to law enforcement and includes numerous provisions that would provide treatment and education resources. For example, the Combat Meth Act would:

- expand the Methamphetamine Hot Spots Program to include personnel for enforcement, prosecution, and cleanup;
- provide funding for the Attorney General for training and cross-designating of local prosecutors as Assistant Attorneys General;
- provide grant funding for Drug Endangered Children rapid response teams to assist children that have been affected by the production of methamphetamine;
- authorize the creation of Methamphetamine Research, Training and Technical Assistance Centers to research effective treatments for methamphetamine abuse and disseminate information and technical assistance to states and private entities on how to improve current treatment methods; and,
- Provide local grants for treatment of methamphetamine abuse and related conditions.

We commend Senators Talent and Feinstein for their leadership in pursuing a role for the federal government to assist with stopping methamphetamine production and addiction. We support these provisions because we believe that these provisions would address the problems of both methamphetamine production and abuse through a comprehensive approach.

The Combat Meth Act provides a comprehensive solution by giving local law enforcement the necessary tools and resources to pursue methamphetamine offenders, and state prosecutors the power to effectively prosecute methamphetamine cases. NACDS has encouraged states to impose necessary restrictions and penalties upon those arrested for and/or convicted of methamphetamine-related offenses. We are pleased that the federal government is assisting states in these matters.

The Combat Meth Act also provides critical funding for methamphetamine education, training, research, treatment, and child endangerment programs. The Combat Meth Act’s comprehensive approach seeks to reduce methamphetamine demand by educating consumers about the life-threatening dangers of methamphetamine abuse and by providing treatment to free methamphetamine addicts from their addiction.

### **A National Standard as Part of a Comprehensive Approach**

Just as we believe that a comprehensive approach is necessary to combat the methamphetamine problem, we believe that a comprehensive approach should include a national standard for limiting consumer access to products that can be used to manufacture methamphetamine. One national standard for retail availability is important because the current patchwork of more than three dozen different state requirements, in addition to scores of local ordinances in cities, towns, and counties throughout the country, is confusing to consumers and law enforcement. For chain pharmacies, which operate in practically every state, city, town, and county in the country, it is complex and costly to have to create different policies, procedures, and employee training programs for every different pharmacy outlet. A national standard for retail availability will streamline our members’ operations and allow for better and quicker compliance nationwide. With respect to the Combat Meth Act, we have supported the following principles for selling products containing pseudoephedrine:

- Preempting retailer requirements in state laws;
- Keeping the sale of pseudoephedrine products available without a prescription;
- Requiring sales of single entity products from behind the pharmacy counter and sold by a licensed pharmacist or pharmacy personnel;
- Requiring sales of combination products from behind the pharmacy counter by January 1, 2007 and sold by a licensed pharmacist or pharmacy personnel;
- Maintaining a written or electronic log of pseudoephedrine purchases to assist law enforcement efforts;
- Limiting purchases to 9 grams within a 30-day period; and,
- Limiting distribution center storage requirements.

Key to a national standard is the preemption of state laws. A national standard could exist only if states are preempted from imposing different requirements upon retailers.

Many of the principles we have supported closely mirror the provisions of the Combat Meth Act. However, the Combat Meth Act would designate pseudoephedrine products as Schedule V controlled substances. We did not include “Schedule V” in our principles because we have concerns about such a designation. These concerns include the fact that in nineteen states, pseudoephedrine products could be sold only upon the order of a prescribing practitioner if they were designated a Schedule V product. We do not believe that a consumer should have to visit a practitioner to obtain a prescription in order to purchase pseudoephedrine products.

Moreover, designating pseudoephedrine as a Schedule V controlled substance would impose undue burdens upon pharmacies. For example, DEA prescribes certain forms, procedures and recordkeeping requirements for controlled substances that would be extended to pseudoephedrine if pseudoephedrine were designated a Schedule V controlled substance. Pseudoephedrine products would have to be stored in a locked cabinet or dispersed throughout the pharmacy. These products could only be ordered from wholesalers by pharmacists. Specific forms and procedures would have to be used for the destruction of such products. Additionally, for a theft or loss of pseudoephedrine, specific forms and procedures would have to be used. Pseudoephedrine invoices would have to be signed and dated and saved separate from other invoices. Dispensing records would have to be maintained separately from other dispensing records and pharmacists would have to review the dispensing records on a daily basis and sign and date the dispensing records on a daily basis. Finally, a detailed inventory of all pseudoephedrine products would have to be performed on a biennial basis. We believe that the goal of federal legislation is to limit access, and not place recordkeeping, storage, and other procedural burdens on pharmacies. We believe that the goal of limiting access can be achieved without designating pseudoephedrine as a controlled substance.

### **Transient Vendors**

In addition to limiting access to pseudoephedrine products by traditional retailers and pharmacies, we believe that a comprehensive federal solution should address the problem of pseudoephedrine sales by transient or limited vendors, such as at flea markets. Many of the products sold at flea markets were originally acquired from questionable sources, often they were stolen from legitimate retailers. As such, we would support legislation that would address all retail theft, including the theft of pseudoephedrine products. We believe that such legislation should prohibit the sales of nonprescription products, as defined in the Federal Food, Drug, and Cosmetic Act and regulations issued under that Act, and infant formula manufactured and packaged for sale for consumption by children under 2 years of age, by a transient or limited vendor, unless the vendor maintains for public inspection written documentation including invoices and other appropriate business records identifying the vendor as an authorized representative of the manufacturer or distributor of that product.

### **Conclusion**

A comprehensive approach is necessary to effectively address the methamphetamine problem. A comprehensive approach includes reducing demand for methamphetamine. Experience with the drug abuse problem has shown that these problems are not eliminated by merely erecting barriers to the drug supply, but we also must focus resources on drug abuse prevention and treatment; we must eliminate the demand for drugs. So long as people are addicted to drugs, they will find ways to get them.

We believe that both the U.S. Senate and House of Representatives have introduced legislation that represents comprehensive approaches to address the methamphetamine problem. Both the Meth Epidemic Elimination Act and the Combat Meth Act will further assist law enforcement by providing more funding and resources for methamphetamine abuse prevention, treatment, and cleanup. These provisions should reduce the demand for methamphetamine, which will have long-lasting benefits.